

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	CRIMINAL NO. 14-2783 JB
	)	
THOMAS R. RODELLA,	)	
	)	
Defendant.	)	

**UNITED STATES' RESPONSE TO DEFENDANT'S MOTION FOR CONTINUANCE  
OF SENTENCING (Doc. 161)**

The United States objects<sup>1</sup> to Defendant's motion to continue the sentencing hearing for the following reasons:

1. Defendant seeks a continuance to permit the Court to conduct a hearing on his Second Motion for New Trial (Doc. 160).

2. Defendant did not file his Second Motion for New Trial until January 15, 2015. His second motion merely addresses one of the issues he already raised in Defendant's Reply to United States' Response to Defendant's Motion for New Trial (Doc. 136), which was filed on November 6, 2014. That issue related to the United States' cross examination of Defendant's son in reference VA medical records.

3. The United States will respond on this date to Defendant's Second Motion for New Trial. In its response, the United States will discuss the obvious – that the defendant's motion is

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<sup>1</sup> Defense counsel failed to comply with Local Rule 47.1, requiring that he contact opposing counsel to determine whether the motion is opposed.

entirely meritless. Moreover, the United States will request that the Court deny Defendant's Second Motion for New Trial without a hearing.

4. Since December 15, 2014, Defendant has been aware that his sentencing was scheduled for January 21, 2014. (Doc. 156). Yet, he filed his motion for continuance just a few days prior to the hearing. Worse, Defendant bases his motion to continue on a second motion for new trial, which simply restates an issue raised more than two months ago. While that issue was not reached by the Court following the hearing on the first motion for new trial, Defendant cannot justify the delinquent filing of his Second Motion for New Trial or his Motion to Continue Sentencing.

The Motion to Continue Sentencing should be denied because (1) Defendant's Second Motion for New Trial is baseless, and (2) both filings are untimely.

Respectfully submitted,

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/s/ Filed Electronically  
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I HEREBY CERTIFY that on January 16, 2015, I filed the foregoing electronically through the CM/ECF system, which caused the below counsel of record to be served by electronic means, as more fully reflected on the Notice of Electronic Filing.

Robert J. Gorence and Louren Oliveros  
Attorneys for Thomas R. Rodella

/s/ Filed Electronically  
Jeremy Peña, Assistant U.S. Attorney